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BOOK REVIEWS.

ASA B. KELLOGG, *Editor-in-Charge.*

THE REVISION AND AMENDMENT OF STATE CONSTITUTIONS. By W. F. DODD. JOHNS HOPKINS PRESS. 1910. xvii-350 pp.

Judge Jameson's justly esteemed work on constitutional conventions is now superseded for all practical purposes by this new and scholarly book by Professor Dodd. The latter has, quite properly, made use of the labors of his distinguished predecessor; but he has set his own problems and done his own thinking. And his work, moreover, is marked by that rare quality (by no means always found even among writers on legal topics)—clearness in presentation—which makes it possible to grasp its principles at one sitting and to refer to it readily for details. In a homely phrase, Dr. Dodd knows where he is going, and goes there. In two chapters he gives a historical review of constitutional conventions from 1776 to 1908. In the third chapter he examines the legal position of the convention—the limitations within which it operates. In his fourth chapter he describes the several varieties of amending processes now in vogue in the States of the Union, and, not content with stating the mere law in the premises, he looks very narrowly into the practical working of the constitutional referendum and appends a valuable table of the popular vote on constitutional questions during the years 1899-1908. There are only a few controversial points in Dr. Dodd's theme, but he fairly meets those that he finds in his path. There is for instance the old question: Can the legislature bind a convention? To this Dr. Dodd replies: "The better view would seem to be that the convention is a regular organ of the State (although as a rule called only at long intervals)—neither sovereign nor subordinate to the legislature, but independent within its proper sphere. Under this view the legislature cannot bind the convention as to what shall be placed in the constitution, or as to the exercise of its proper duties." Again: What effect does constitutional revision through the initiative and referendum have on judicial control over law making? To this our author answers, after an examination of the pertinent facts and current practices: "The power of the courts over laws approved by the people may cease at some time, as President Lowell has suggested, but certainly this power will not be surrendered in the near future. * * * The approval of laws by the people may have some influence in making courts more cautious, and in bringing them back more nearly to their true function as interpreters rather than as makers of laws." Finally there is the biggest question of all: How can we do away with the everlasting constitutional tinkering and at the same time retain that popular control over the legislature which experience in American politics has demonstrated to be imperative? And for this fundamental problem our author has his solution: Measures of fundamental importance which are really constitutional in character should be controlled by popular vote; the legislature should be entrusted with more power over details, subject however to an optional referendum; more autonomy should be given to localities in order to safeguard special and local legislation; popular control over amendments should be extended to make possible initiation by popular petition; and the texts of amendments to be passed upon should be

distributed to the voters in advance. Law, practice, and sound policy have their place in this well balanced book; and every student of state government will be the wiser for having read it.

C. A. B.

THE COMMERCIAL POWER OF CONGRESS, CONSIDERED IN THE LIGHT OF ITS ORIGIN, &c., by DAVID WALTER BROWN, Ph.D., of the New York Bar. G. P. PUTNAM'S SONS. New York and London. 1910. pp. ix, 284.

Mr. Brown attempts to show, what a study of the utterances of the Supreme Court of the United States would seem to make almost unnecessary, viz., that the power of Congress to regulate interstate commerce is just as great as its power to regulate foreign commerce. He is led to make this attempt by reason of the fact that there is apparently a popular belief, which is largely shared by the Bar, that, in some way or other, and notwithstanding the power over commerce with foreign nations and among the several States is given in the same section, and even in the same clause, of the Constitution, the power over foreign commerce is greater than it is over interstate commerce.

Mr. Brown bases his conclusion that the powers are the same on a historical study of the commercial conditions of this country existent at the time the Constitution was adopted, a consideration of the proposals made both outside of and within the convention of 1786 for the enlargement of the commercial power of Congress and their treatment both in the national and state conventions, and an examination of the more recent and important decisions of the Supreme Court in its interpretation of the commerce clause as finally adopted.

It has been said that, in view merely of the utterances of the Supreme Court Mr. Brown's essay would seem almost unnecessary. It should be added, however, that his work is well done and is really useful as an antidote to a good deal of loose talk of the supposed impotence of Congress in the matter, which is due on the one hand to those who do not wish to have any effective regulation of interstate commerce, and on the other to those who still regard with affection what they consider the historical tradition as to the powers of the States.

F. J. G.

HANDBOOK OF INTERNATIONAL LAW. By GEORGE CRAFTON WILSON, Professor of International Law in Harvard University. St. Paul, Minn.: WEST PUBLISHING Co. 1910. pp. xxiii, 623.

This volume forms the thirty-third number in the Horn Book Series of the West Publishing Company, and as such is intended to serve the purposes of an elementary treatise. It constitutes a useful manual. As the author states, owing to the numerous and recent modifications of earlier views, he has specially sought to present general principles as they are now interpreted. The work is divided into five parts respectively relating to the personality of states, their general rights and obligations, their intercourse, their differences, war, and neutrality. There are five appendices, containing (1) the Declaration of Paris of April 16, 1856, (2) the Instructions for the Government of Armies of the United States in the Field, April 24, 1863, (3) the revised Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, July 6, 1906, (4) various acts of the Hague Conference of 1907, and (5) the Declaration of London, February 26, 1909, concerning the Laws of Naval War. The document last mentioned is one that no doubt specially interests the author, as